

U.S. DEPARTMENT OF LABOR
Employment and Training Administration
Washington, D.C. 20210

REPORT ON STATE LEGISLATION

REPORT NO. 6
December 2016

CALIFORNIA	AB 2532 (CH 759)	ENACTED September 28, 2016 EFFECTIVE January 1, 2017
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Coverage

Repeals provisions requiring each state or local government agency or community action agency, or any private organization contracting with a state or local government agency, that provides specified employment services to verify the legal status or authority to work status of applicants prior to providing services.

Also repeals provisions requiring each state or local government agency or community action agency, or any private organization contracting with a state or local government agency, that provides specified employment services to post notice in plain sight of the need to verify legal status or work authority.

COLORADO	Rule 13654	ADOPTED March 31, 2016 EFFECTIVE March 15, 2016
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Nonmonetary Eligibility

Allows, for specified groups of job seekers, participation in dedicated services at the local workforce center. Participation shall be voluntary and replace employer contacts with other workforce center staff-directed activities designed to help them return to work and shorten the period of unemployment, including assistance with resume writing and job-interview skills. Tangible evidence of work-search activity shall mean a written record that can be verified and that includes: the date and location of the activity; the name of the provider of the activity; and phone number, email address, or other reliable contact information for the provider. The Division, in cooperation with workforce center staff, shall encourage participants to continue their sustained efforts to prepare for, seek, and find employment.

Note: Replaces Rule 13615 2016 that expired April 17, 2016.

COLORADO	Rule 13615	ADOPTED January 18, 2016 EFFECTIVE January 19, 2016
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Nonmonetary Eligibility

Expires April 17, 2016, and was made permanent by Rule 13654 2016.

ENACTED and EFFECTIVE August 10, 2016

Revises the provision on notice to claimant such that the notice must now be provided to the claimant in the claimant's primary language and include a notification that a claimant shall submit any application for benefits under this section [training] no later than the 20th week of a new or continued claim unless the period is tolled by regulation or waived for good cause.

ADOPTED October 31, 2016
EFFECTIVE November 11, 2016

Defines the benefit payment date as the date printed on a physical check, the date of release of electronic funds transfer, or the date cash was tendered, and allows up to 14 calendar days for reporting discrepancies.

Adds registration for work at a temporary employment agency as a required work search contact, and repeals the provision that inquiring for work at a temporary employment agency does not constitute a valid work search.

Overpayments

Provides that a lump-sum payment of over 50 percent of the amount due on a nonfraud overpayment may be accepted by the department based on circumstances or the reason for the overpayment, the overpayment balance, and how long it would take to recover the debt with just monthly payments.

NEW JERSEY

SB 2004
(CH 62)

ENACTED November 14, 2016
EFFECTIVE March 14, 2017

Administration

Permits individuals who have served in the military, worked for the Federal government, or worked outside the state of New Jersey to file a claim online.

OHIO Rule 20295

ADOPTED January 25, 2016
EFFECTIVE February 26, 2016

Appeals

Provides that an appeal filed is considered timely filed if it is filed within 21 days of the date (previously, 21 days after) the director's notice of determination or redetermination is sent to the last known post office address. The notice may also be provided electronically if an individual elects to receive notifications via electronic correspondence. In determining whether an appeal was filed timely the director and the unemployment compensation review commission shall take administrative notice of and accept the "date issued" (previously, "date mailed") appearing on the notice of determination or redetermination as sufficient evidence to establish the date on which the determination or redetermination was sent.

OHIO

Rule 20409

ADOPTED March 31, 2016
EFFECTIVE April 10, 2016

Administration

Provides that payment of contributions or payment in lieu of contributions shall be made (in addition to other methods) by electronic funds transfer methods approved by the director.

Provides that an employer's account will be credited as of the transmission date of the payment only if the payment, upon presentation, clears the employer's bank.

Provides that employers making any payment by electronic funds transfer, which is returned for reason of insufficient funds or for any other reason, may be denied the privilege of making future payments by electronic funds transfer.

Provides that payroll and employment records shall be made available by the employer for audit upon the request of the director. Records may be submitted by mail, through an in-person interview, or electronically. Audits may take place at the employer's place of business, at the office of its duly authorized representative within the state of Ohio, or at any other location deemed appropriate by the director. Audits shall be held during regular daytime business hours. (Previously, payroll and employment records shall be made available by the employer for audit at the employer's place of business, or at the office of its duly authorized representative within the state of Ohio, during regular daytime business hours.)

OHIO Rule 20410

ADOPTED March 31, 2016
EFFECTIVE April 10, 2016

Nonmonetary Eligibility

Rescinds prior rule requiring registration and deeming that an individual is registered upon filing a claim for benefits.

Note: Ohio statute requires registration, and includes the provisions that are included in the rescinded rule; thus prior rule unnecessary.

Special Programs

Rescinds the rule defining full-time employment, for purposes of the Alternative Trade Adjustment Assistance, to be 35 hours per week, by custom, or as specified in contract.

OREGON Rule 37850

ADOPTED and EFFECTIVE January 29, 2016

Administration

Clarifies the law that allows exceptions where the Employment Department may disclose confidential information, including to partners for the purpose of administering state workforce programs. The Employment Department is authorized to disclose confidential customer information or records to one-stop delivery system partners under certain circumstances. The phrase "one-stop delivery system" means the workforce development activities provided by one-stop delivery system partner entities as authorized by the Workforce Investment Act. The phrase "one-stop delivery system partner" means an entity described in section 101(30) of the Workforce Investment Act of 1998, including entities that carry out appropriate federal, state, local, or private programs not specifically enumerated in the Act. A "partner" under the Workforce Innovation and Opportunity Act fits within the definition of "partner" under the Workforce Investment Act of 1998 as codified in Public Law 105-220.

Notwithstanding the definition of "one-stop delivery system partner" above, this rule further provides that Oregon does not permit disclosure of confidential unemployment compensation

information to private entities, unless the private entity has on file a written, signed, informed consent release from the individual whose information is being sought.

Provides that Rule 37850 is temporary and expires on July 26, 2016.

OREGON Rule 38182 ADOPTED and EFFECTIVE August 1, 2016

Special Programs

Defines the beginning date for a shared work plan is no earlier than the week after the plan is approved and provides that initial claims submitted prior to the start week of a plan will be considered filed the week the plan is effective. The original date on incomplete forms will be honored if the employer returns requested information within seven calendar days.

Provides that an employee:

- may use other paid time (such as vacation) to bring the work hour reduction to the required amount (20 to 40 percent) when the individual's work schedule is reduced by more than 40 percent in a week;
- during a week the employee is not eligible for shared work benefits and files a claim for regular unemployment, will be considered actively seeking work if the employee remains in contact with the employer and has a date of return to work or shared work that is within four calendar weeks of the date the employee did not meet the hourly reduction requirement for shared work; and
- is responsible to provide information to the employer related to any earnings for another employer, missed work opportunities, or paid time used during the week claimed.

Provides that the employer will complete continued claims for benefits and submit the employee's shared work claim no later than 7 days following the week the claim is filed.

OREGON Rule 38183 ADOPTED and EFFECTIVE August 2, 2016

Administration

Clarifies how the Oregon Employment Department applies exception to sharing confidential information by redefining:

- "One-stop delivery system" to mean the workforce development activities provided by one-stop delivery system partner entities as authorized by the Workforce Investment Act. (Previously, meant the workforce development activities provided by one-stop delivery system partner entities as authorized by the Workforce Investment Act and HB 3835 (Chapter 684; Oregon Laws 2001) and described in local Memorandums of Understanding or Regional Partnership Agreements developed by workforce investment boards and approved by the Governor's Office of Education & Workforce Policy.)
- "One-stop delivery system partner" to mean an entity described in section 101(30) of the Workforce Investment Act of 1998, including entities that carry out appropriate Federal,

State, local, or private programs not specifically enumerated in the Act. (Previously, meant entities authorized by the Workforce Investment Act and HB 3835 (Chapter 660; Oregon Laws 2001) and described in local Memorandums of Understanding or Regional Partnership Agreements developed by workforce investment boards and approved by the Governor's Office of Education & Workforce Policy. Entities may include private sector businesses that are a contracted agent of a governmental entity that is a partner, and responsible for the delivery of Workforce Investment Act related services.)

WISCONSIN

Rule 22306

ADOPTED May 9, 2016

EFFECTIVE May 6, 2016

Nonmonetary Eligibility

Creates a new rule related to pre-employment drug testing, substance abuse treatment program, and jobs skill assessment, and defines terms related to the new rule.

Allows employing unit to report the results of a positive drug test for controlled substances if the test: was conducted as a condition of an employment offer and the individual was informed that the results may be shared with the department prior to the test; was conducted or confirmed by a certified laboratory; there is no evidence of a valid prescription for the controlled substance; and the employing unit complies with all of the provisions of the rule. Requires the information be reported within 3 business days of receipt of the results and defines the information required to report the results to the department.

Allows an employing unit to report an individual declining to submit to a test for controlled substances if the test was required as a condition of employment and the individual was informed that the results may be shared with the department prior to the test. Requires the information be reported within 3 business days of the date the individual declined the test and defines the information required to report the results to the department.

Provides that, if the department receives information on a positive test result or that an individual has declined the test, the department must determine if the individual is receiving benefits and provide the documentation to the individual. If the department makes a determination based on the presumption that the individual failed, without good cause, to accept suitable work, the department must provide the individual an opportunity to overcome the presumption that the individual failed to accept suitable work.

For an individual whose determination was based on a positive test, the individual may overcome the presumption of failure to accept suitable work if any of the following are established:

- the employing unit did not extend an offer of employment contingent on submitting to test or withdrew the offer before receiving the positive results;
- the individual held a valid prescription at the time of the test for each controlled substance detected;
- the test was not conducted or confirmed by a certified laboratory;

- labor standards protections apply to the work offered; and
- the department determines circumstances are beyond the individual's control.

For an individual whose determination was based on declining the test, the individual may overcome the presumption of failure to accept suitable work if any of the following are established:

- the employing unit did not extend an offer of employment contingent on submitting to test;
- the individual was unable to complete a test due to medical reasons;
- the individual accepted an offer of employment before or at the time the individual declined the test;
- the individual was required to pay for the test;
- labor standards protections apply to the work offered; and
- the department determines circumstances are beyond the individual's control.

Provides that an individual deemed to have failed to accept suitable work due to a positive drug test or by declining to take the test is ineligible to receive benefits until the individual earns wages equal to at least six times the individual's weekly benefit rate in covered employment.

Requires that the individual must be otherwise eligible for benefits and enroll in an approved substance abuse treatment program to maintain eligibility; enrollment is limited to one time per benefit year. Establishes compliance requirements for participation in the substance abuse program, including the requirement that the individual must contact a treatment provider to schedule an assessment within five working days of being directed by the department.

Requires the department to pay for reasonable costs of the services provided in the treatment plan for each week the individual is eligible for benefits.

Requires the individual participating in the substance abuse program to complete a jobs skills assessment; failure to complete the assessment results in ineligibility until the individual earns wages in covered employment equal to six times the individual's weekly benefit rate.

Expires January 30, 2017.